

SECTION V
LOCAL LAWS AND REGULATIONS
NECESSARY TO IMPLEMENT
THE PROGRAM

SECTION V - Local Laws and Regulations Necessary to Implement the Program

This section describes the techniques for implementation of the City of Newburgh LWRP. It describes the land use controls that have been enacted by the City to implement the policies and projects of the LWRP.

A. LAWS AND REGULATIONS

1. Zoning Regulations

The zoning regulations for the City of Newburgh establish use districts and regulations applicable to the uses allowed within each district. The zoning regulations establish setback and density requirements, regulate the bulk and arrangement of buildings, the area of lots covered by development and open space, the provision of off-street parking, and the location of accessory structures that support the principal uses and buildings on each property.

The following zoning districts apply to properties within the LWRP.

- R-1 One Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- RC Civic Center & Residential
- TC-1 Tourist Commercial
- I-1 Heavy Commercial/Light Industrial
- W-1 Waterfront Mixed Use
- W-2 Waterfront Industrial

The districts, illustrated on Map 3, implement the LWRP as indicated below:

- R-1 Zoning District - The small lot urban character and existing single family uses within these areas will be encouraged and the conversion of single family residences to two and multiple family residences will be discouraged.
- RC, Civic Center and Residential Zoning District - This is the City's "civic" center with a mix of municipal, institutional, and office uses permitted along the lower end of Broadway and in the vicinity of Grand Street north of Broadway. Residential uses are also permitted.
- TC-1 Zoning District - The TC-1 district includes several properties along Broadway, Liberty Street as well as urban renewal land between Water Street and Colden Street. The TC-1 zoning district is intended to encourage tourist-related commercial uses. It also permits residential uses in the upper floors of mixed use buildings. For the area north of South Street along both sides of Liberty Street the intent is to adaptively reuse

several of the vacant industrial buildings in this location for tourist-related uses, e.g., art gallery.

- I-1 Zoning District - In areas with this zoning designation, residential uses or general commercial uses are not permitted. Rather, it will be dedicated to heavy commercial and light industrial use. This is intended to protect the nonresidential employment and tax base within the City.

a. Waterfront Districts

The City of Newburgh adopted comprehensive zoning amendments in 1992 and 1998 to encourage water-dependent and water-related uses along the City of Newburgh's waterfront. The districts that influence land use immediately adjacent to the waterfront are the W-1 and W-2 zoning districts. The waterfront districts permit and encourage a range of water-dependent and water-enhanced uses to ensure that the City's valuable waterfront land is developed in a manner that will ensure an attractive waterfront setting with a mix of activities that are beneficial to city residents and waterfront property owners. It is also the goal of these districts to ensure that development incorporate a public access component to allow use of the waterfront by residents, employees, and visitors.

W-1 Zoning District

The W-1 zoning district is located primarily to the east of Water Street, and north of River Street. The following uses are permitted on lots having Hudson River frontage:

- Yacht clubs and marinas, including uses accessory to them such as a boatel (hotel-motel for boat operators and guests), swimming pools, tennis courts, and racquetball facilities.
- Boat docks, slips, piers, and wharves for yachts and pleasure boats or for boats for hire carrying passengers on excursion, pleasure, or fishing or vessels in fishery or shell fishery.
- Yard for building, storing, repairing, selling or servicing boats which may include the following as an accessory use: office for the sale of marine equipment or products, dockside facilities for dispensing fuel, restroom and laundry facilities to serve overnight patrons.
- Boat and marine engine sales and display, yacht broker, marine insurance broker.

- Rental of boats.
- Retail sales or rental of boating, fishing, diving, and bathing supplies and equipment.
- Sail loft or ship's chandlery.
- Parks, aquariums, museums, and libraries.
- Waterborne transportation terminals and passage ticket sales, providing parking lots for these uses shall not be located on any sites within Hudson River frontage.

Several uses are permitted on lots that do not have Hudson River frontage, or are allowed by special use permit if located on a lot with Hudson River frontage, including:

- Retail uses in addition to those permitted by right, provided that no single store shall exceed 8,000 square feet except that a store devoted principally to the sale of marine supplies may exceed 8,000 square feet but may not exceed 25,000 square feet. Retail uses are required to provide public access via a public walkway to the riverfront in accordance with Section 300-174 of the zoning regulations.
- Restaurants, art and antique galleries, professional and business offices. These uses are required to provide public access via a public walkway to the riverfront in accordance with Section 300-174 of the zoning regulations.
- Garden apartments, as such use is permitted in the G-1 district subject to all restrictions provided therein. Garden apartments are required to provide public access in accordance with 300-174 of the zoning regulations.
- All other uses that are permitted in this district which do not require Hudson River frontage in order to function.

Certain uses are permitted by special permit whether or not they have Hudson River frontage:

- Adaptive reuse of existing buildings for residential use (applicable to the Regal Bag Company Building).

- Single family attached and multifamily dwellings (intended for Pier Loun and Ferry Crossing developments to remain as non-conforming uses in the W-1 zoning district).

The zoning provisions within the W-1 district require that certain uses provide public access via a walkway open to the public. Houseboats are specifically prohibited from the W-1 district.

W-2 Zoning District

The W-2 zoning district is bound by South William Street to the north, Water Street to the west, the City's border with the Town of New Windsor to the south, and the Hudson River to the east. The following are permitted uses within the W-2 zoning district:

- Boat docks, slips, piers, and wharves for yachts and pleasure boats or for boats for hire carrying passengers on excursion, pleasure or fishing or vessels engaged in fishery or shell fishery.
- Yards for building, storing, repairing, selling or servicing boats which may include the following as an accessory use: office for the sale of marine equipment or products, dockside facilities for dispensing fuel and restroom and laundry facilities to serve overnight patrons.
- Boat and marine engine sales and display, yacht broker and marine insurance broker.
- Rental of boats.
- Retail sale or rental of boating, fishing, diving and boating supplies and equipment.
- Sail loft or ship's chandlery.
- Parks.
- Municipal services.

Certain uses in the W-2 district are allowed by special use permit. These uses include:

- Wholesale and/or retail sale of fish, provided that no processing occurs on the site.
- Research, design and development laboratories needing a waterfront location.

- Industrial uses requiring waterfront access for shipping or receiving raw materials, provided that such uses shall have a 25-foot landscape buffer on all sides except the waterfront, and no exposed storage shall be visible from adjoining properties. Liquid storage shall be limited to fuel oil required by the Newburgh area and nonflammable and nontoxic materials.
- Passenger terminals.

Special permit uses that abut the Hudson River or the Quassaick Creek must provide public access.

b. View Preservation District (see Appendix A)

The City of Newburgh adopted zoning regulations intended to protect certain vistas within the City of Newburgh from encroachment by buildings which might block or intrude into designated views. The views are from the following locations:

1. Grand and Washington Streets.
2. Washington's Headquarters.
3. Broadway and Colden.
4. Grand and Second Streets.
5. Public Library.
6. First and Grand Streets.
7. Montgomery Street and Leroy Place.
8. Montgomery Street.
9. Leroy Place and Park Place.

No building, structure or permanent improvement may be erected, have its exterior reconstructed, restored, structurally altered, or placed within a defined view plane in a manner that would impair or cause significant loss of an existing scenic public view unless visual site plan approval by the Architectural Review Commission within the Historic District or the Planning Board outside the Historic District is obtained.

c. Historic Preservation (see Appendix D)

The Zoning Ordinance, Section 24-57.1, provides for "... the promotion of the educational, cultural, economic and general welfare of the people of Newburgh through the protection, enhancement, perpetuation and preservation of various specific areas of the City of Newburgh to be known as Historic Districts or Architectural Design Districts."

The Ordinance establishes an architectural review commission of nine, members of which include the chairmen of the planning board and the

zoning board of appeals, the city historian, and a registered architect. The commission acts in an advisory capacity to the ZBA and the planning board. Only buildings constructed prior to 1900 are protected, however; but review extends to changes in exterior architectural features, materials, appurtenances such as outbuildings and fences, and site design. The ZBA shall defer any decision on such matters pending the receipt of a report from the Architectural Review Commission.

The City Historic District is shown on Map 3. The zoning ordinance has been amended to apply to any structure listed or eligible for listing on the National and State Registers of Historic Places. A local landmark register will also be established.

The law has been strengthened to prevent demolition of significant structures. Provision have been made for protection of archeological resources by noting that the State Historic Preservation Office maps of archeological resources will be consulted whenever land is to be disturbed.

d. Special Permit Uses

Special uses are allowed subject to approval by the Planning Board in order to streamline the permitting process and reduce the time involved in seeking approvals from multiple agencies/boards. Special use conditions are typically matters that the Planning Board considers when conducting site plan review. The zoning ordinance includes regulations which (a) stipulate conditions under which a special permit will be granted, (b) clarify the position of the architectural review commission, and (c) give clearer guidelines for the protection of significant views and vistas. The special permit conditions section includes a requirement that special permit uses within the LWRP area be undertaken in a manner consistent with the policies of the LWRP.

e. Site Plan Review

New development or proposed redevelopment within the LWRP area is subject to site plan review and approval by the Newburgh Planning Board.

(1) Site Plan Approval Checklist - Identification of any hazardous materials associated with the proposed industrial use and disclosure of information on use, storage, treatment and disposal.

(2) Best Management Practices during construction and operation phases have been added to Section 24-67, Approval of Site Development Plans, of the Zoning Ordinance.

(3) Flood Damage Prevention. These regulations require, wherever possible, that areas subject to flooding be relegated to open space and recreation uses not adversely affected by flood waters.

2. City of Newburgh Urban Renewal Plan

The Urban Renewal Plan was enacted in the 1960's to guide the redevelopment of urban renewal parcels. The Urban Renewal Plan is still utilized by the City to guide the disposition of former urban renewal proposals located within the LWRP area.

Urban renewal policies are consistent with, and support several LWRP policies, specifically:

- Policy 1 Revitalization of Deteriorated Waterfront Areas
- Policy 18 Safeguarding Vital Interests of the State
- Policy 19 Access to Public Water-Related Recreation
- Policy 23 Historic Resources
- Policy 25 Overall Scenic Quality

3. Local Consistency Law (see Appendix E)

A local law was adopted under the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42, Executive Law) enabling the city to review its own or any other proposals for activities within the LWRP area. This review ensures that actions are consistent with the policies and purposes of the LWRP.

Under this law, a Waterfront Advisory Committee has been established as an advisory body to the city's planning board. The Committee is furnished with a completed copy of a Coastal Assessment Form (CAF) to assist with the consistency review. The Planning Board considers the recommendations of the Committee before making its determination as to the consistency of a proposal with the objectives of the Local Waterfront Revitalization Program (LWRP). State and federal actions are reviewed in accordance with guidelines established by the NYS Department of State.